

§ 29.90

of unsold tobacco involved shall be null and void and no further inspection shall be performed on such lot(s) offered for sale by the warehouseman in whose premises the violation occurred until the next regularly-scheduled sale for such warehouse: Provided, That if violation consists of talking to the inspector while he/she is grading the tobacco, a warning shall be given on first offense and penalty provisions shall apply on any subsequent offense. A reduction in daily sales for any warehouse resulting from a violation of this section shall not prevent the maximum number of lots or pounds allotted per day per set of buyers from being sold in a designated market.

(b) *Other.* No person, including the owner, producer, receiving station operator, purchaser, agent, or employee thereof shall attempt, in any manner, to influence an inspector with respect to the grade designation of tobacco, or impede, in any manner, an inspector while the inspector is in the process of grading tobacco.

(c) *Administrative Remedies.* The provisions of this section shall not preclude the application of other administrative remedies or the institution of criminal proceedings in appropriate cases as provided by the Act.

[67 FR 36081, May 23, 2002]

APPEAL

§ 29.90 When appeal may be taken.

Whenever an interested party believes that a certificate issued or a sample prepared under the act is not correct he may file an appeal: *Provided*, That (a) the period for which such certificate was issued or sample was prepared, if any specified, has not expired; (b) all tobacco covered by such certificate or sample is accessible to an appeal inspector for making a proper re-inspection, resampling, or reweighing, and can be definitely identified by him as the tobacco covered by such certificate or sample; and (c) the tobacco has not deteriorated or undergone any material change.

§ 29.91 How to obtain an appeal.

An appeal shall be made in writing and filed with the Division or the office

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of inspection for the type of tobacco involved. Such appeal shall show:

(a) The date; (b) the name and post office address of the appellant and of the person, if any, making the appeal in his behalf; (c) the financial interest of the appellant in the tobacco; (d) the reasons for making the appeal; and such other information as may be required by the Director. The appeal shall be accompanied by the certificate or sample from which the appeal is taken, unless such requirement is waived by the Division when it is impracticable for the appellant to furnish such certificate. The appeal inspector may require the appellant to furnish any other relevant and necessary information for the proper consideration of the appeal.

§ 29.92 Record of filing time.

When an appeal is filed, the date and time of filing shall be recorded by the officer receiving it.

§ 29.93 When appeal may be refused.

If it shall appear that the reasons stated in an appeal are frivolous or unsubstantial or that the act or this subpart have not been complied with, the appeal may be denied or dismissed. When an appeal is denied or dismissed, the appeal inspector shall (a) notify the appellant by telegraph or in writing giving the reason for such denial or dismissal; (b) mail a copy of such notification to the Division; and (c) return or release to the appellant, or other person designated by him, any certificate or sample which was filed with the appeal. All expenses incurred in connection with an appeal prior to its refusal or dismissal shall be paid by the appellant, as provided in § 29.126.

§ 29.94 When appeal may be withdrawn.

An appeal may be withdrawn by the appellant at any time before an appeal certificate is issued or an appeal sample is prepared, upon the payment of any expenses incurred in connection with the appeal as provided in § 29.126.